

**UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**
2006 MAR -6 P 2: 12

Angel Ruiz Rivera and
Instituto de Educacion Universal

FILED IN CLERKS OFFICE
US COURT OF APPEALS
FOR THE FIRST CIRCUIT

CR. 98-2225(RLA)

v.

05-1775

United States Department of Education

NOTICE OF APPEAL

TO THE HONORABLE CIRCUIT COURT (HCC):

Comes now the Co-Plaintiff, Co-Appellant, promoter and movant of the original filing of this controversy against the Co-Defendants/ Co-Appellees, the federal agency and Secretary whose final decision was timely and properly challenged almost ten (10) years ago, based on the statutorily mandated judicial review, under the Administrative Procedures Act (APA) (5 U.S.C. 1 et seq.), through the original filing at this same HCC (97-2225), and subsequently at the Honorable District Court (HDC) [98-2225(RLA)], both before and after the resulting preceding appeal 99-1628 was prompted and remanded, and which as a result of its second railroading, the instant appeal has evolved; Angel Ruiz Rivera, appearing Pro Se, respectfully states, alleges and prays as follows:

1. That on January 18, 2006, the HDC issued an Order in the case below denying Co-Plaintiff/Co-Appellant Instituto de Educacion Universal (IEU), Motion For Relief of Judgment, timely filed by its appearing counsel, pursuant to Federal Rule of Civil Procedure 60 (b)(3).
2. That according to the opinion of the Honorable Seventh Circuit in *Boyko v. Anderson*, 185 F.3d 672 (7th.Cir. 7/19/1999), there are discrepancies, among the Honorable Circuits as to whether “the district court is at least authorized to deny a Rule 60(b) motion pending appeal”, which is precisely the supposed *status quo* of this case as a result of the instant appeal.
3. Since according to the teachings of this above cited opinion, which is much more recent than the apparently controlling one in this HCC, which appears to be *Commonwealth of Puerto Rico v. SS Zoe Colocotroni*, 601 F.2d 39 (1st Cir. 07/10/1979), I must under the circumstances, move to try to protect the interests of all the Co-Plaintiffs/Co-Appellants to try to prevent another railroading of our more than justified claims, as it has been heretofore shamefully to say the least, the customs and usage by all the intervening forums in same controversy.

For these reasons, I am respectfully filing this Notice of Appeal on behalf of IEU, and of myself personally, if applicable,¹ pursuant to Federal Rule of Appellate Procedure (FRAP) 4, and the case law precedent of this same HCC in its opinion on the previous appeal of this same case, *Instituto De Educacion Universal Corp. v. United States Department of Education*, 209 F.3d 18, 209 F.3d 18 (1st Cir. 04/12/2000), where it ruled that:

Thus, we hold that a corporate officer may sign and file a notice of appeal on behalf of the corporation, as long as the corporation then promptly retains counsel to take up the cudgels and prosecute the appeal. Accord *Bigelow v. Brady*, 179 F.3d 1164, 1165-66 (9th Cir. 1999) ("We fail to see any compelling reason to refuse to recognize a corporation's notice of appeal, signed and filed by a corporate officer, so long as a lawyer promptly thereafter enters a formal appearance on behalf of the corporation and undertakes the representation."); *K.M.A., Inc. v. GMAC*, 652 F.2d 398, 399 (5th Cir. 1981) (similar). That condition is satisfied here. (Emphasis ours).

In addition, I pray that this appeal of the FRCP 60 (b)(3) Motion, is consolidated with the instant one supposedly sub judice, pursuant to this HCC's determination in the *Colocotroni* case cited above, where this same HCC stated that:

If the motion for relief from judgment is denied by the district court, and the denial appealed, we will entertain a request to consolidate that appeal with the pending appeal from final judgment where feasible.

¹ Due to the topsy turvy or hanky panky fashion this issue has been handled, by all the intervening Honorable Courts heretofore, and not being a lawyer, I have no way of knowing where I stand or in legal words where my standing lies by now.

This way, you will most probably be able to get rid of IEU's and mine's just claims for good, something which according to the way and manner you have entertained our prayers to you for over almost 10 years now, should be very tempting, welcomed, and desired, so that you may finally get this controversy over with. This is so, since our search for our basic Constitutionally and statutorily protected rights, such as the redress for grievances, procedural and substantive due process and equal treatment under the law, "guarantees", and judicial review of the final agency decision, besides our quest to defend our elementary human rights such as our honor and dignity, have been evidently taken by many as a mere fastidious nuisance.

The above is evident from the way our struggle for at least a modicum of due process, a fair trial and "Justice", without mentioning our proven denunciations of the U.S. attorney's malicious prosecution and fraud upon the courts have heretofore been treated by this system of "Law " and "Justice.

For all the above stated reasons, I respectfully pray that this HCC allows the timely filing of this Notice of Appeal, of the HDC's pervasively biased and full of prejudice second railroading of this cause of action, without ever having allowed for the least modicum of discovery, even a

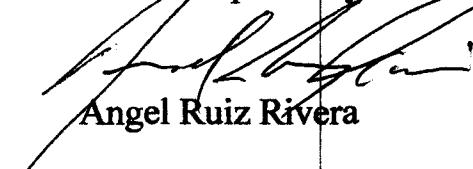
hearing, much less a day in court, at any of the stages of these evidently corrupted procedures, not even those that were supposed to take place upon this HCC remand, now translated in the form of the denial of the FRCP 60 (b)(3) Motion already made reference to.

I truly and honestly believe that the order by the HDC hereby appealed is unripe and to say the least, that it is clearly an imprudent decision especially under the historical procedural and substantive circumstances of this controversy, most particularly while the instant appeal is supposedly sub judice. But then again, you are the one with the power and authority to decide ² and to determine what is prudent or imprudent. In any event, I pray that you proceed to consolidate this appeal with the supposedly ongoing one, so that we may all leave this travesty of "Justice" behind in our dead files soon enough and can continue with our lives. This way you will enjoy the pleasure of ceasing to have me intruding into yours as the Pro Se, proactive litigant *a la* "Forrest Gump" you have evidently taken me as, just for having implored and beseeched for a simple day in court, the same one you routinely have granted to pedophile priests (amidst Cardinal Bernard Law efforts against it), serial killers (e.g. Boston strangler) and terrorists.

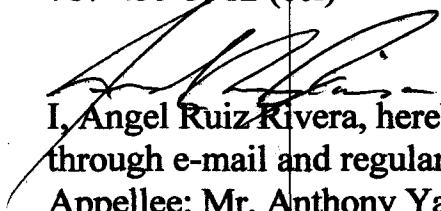
² Review the teachings of Boudin, the French genius, who as the "Founding Father" of Modern Political Science, defined the concepts of Influence, Power, Authority and Sovereignty.

So I state, allege and pray.

Respectfully submitted, today March 2, 2006.


Angel Ruiz Rivera

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 Certificate of Service

I, Angel Ruiz Rivera, hereby certify that I have sent a copy of this motion through e-mail and regular mail to the appearing counsel for the Defendant-Appellee; Mr. Anthony Yang, Esq., U.S. Department of Justice, Appellate Staff, Civil Division, 950 Pennsylvania Ave., N.W., Room 7248, Washington, D.C. 20530-0001 and personally to the appearing counsel for Co-Plaintiff/Co-Appellant, IEU, Mr. Julio Morillo Limardo, Esq.; juliomorillo@aol.com; at Ave. Betances I-17, Bayamon, P.R. 00959.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

INSTITUTO DE EDUCACION UNIVERSAL,
et al.

v.

CASE NUMBER: CIVIL 98-2225 (RLA)

UNITED STATES DEPARTMENT OF
EDUCATION

O R D E R

MOTION	RULING
<p>Date Filed: 10/25/05 Docket # 95 [X] Co-Plaintiff INSTITUTO DE EDUCACION UNIVERSAL</p> <p>Title: Motion For Relief From Judgment</p>	<p>DENIED. This action is on appeal.</p>

January 18, 2006
Date

S/Raymond L. Acosta
RAYMOND L. ACOSTA
U.S. District Judge

Rec'd:	EOD:
By:	#